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TAGS: [CASC](#) [EINV](#) [KIDE](#) [OPIC](#) [PGOV](#) [AL](#)
SUBJECT: ALBANIA: 2009 EXPROPRIATION REPORT

REF: STATE 49477

1. (U) All four (4) previous claims of United States persons against the Government of Albania (GOA) are considered extinguished.

2. (SBU)

a. Claimant A
b. 1939

c. Claimant and her family left Albania in 1939 when the Italian occupying government allegedly expropriated their home and adjoining land, which covers an area of approximately 2,700 square meters in central Tirana and has a current estimated value of USD 1,000,000. Claimant, now a U.S. citizen, initiated proceedings before a privatization commission in 1995 to recover the property, occupied then and at present by the Albanian Republican Guard. The commission ruled that Claimant was entitled to the property, provided that she pay approximately USD 8,000 to cover the cost of improvements made by previous occupants. Claimant paid in full, but continues to be denied possession of the property. Albanian law clearly prescribes that, pursuant to privatization commission rulings, occupants are allowed three years to vacate the premises, provided that they pay rent and that the titular owner is in accord with the arrangement. Claimant asserts that she never agreed to such an arrangement and that no attempt on the part of the current occupant to pay rent has been made.

In February 2000, after her attorney's attempt to negotiate the current occupant's departure failed, Claimant filed suit against the Ministry of Public Order and the Albanian Republican Guard to obtain payment of back rent from 1995. In 2002, the court ruled in favor of Claimant. The defendants appealed the decision, however, and the court of appeals subsequently ruled in their favor. The case is currently pending in Albania's Supreme Court. Concerned about the slow pace of the Supreme Court docket, Claimant initiated a second lawsuit in mid-2003 to obtain actual ownership and possession (as opposed to mere rent collection). Claimant has been unable to occupy or alter the property, which she wishes to use for the purpose of housing a charitable organization. Her attorney indicated that Claimant is adamant about recovering the property in question. Overdue rental payments are of secondary concern to Claimant. Claimant entered into negotiations for settlement of all claims with the Ministry of Public Order in January 2005. The change in government in September 2005, however, resulted in the termination of settlement negotiations. In 2006, a District Court, acting on Claimant's second lawsuit, ruled that Claimant did not own the property, and in March 2007 appealed to the Court of Appeals. In May 2007 the Court proceeded with the hearing on the appeal of the previous decision of February 2006 against the defendant and to return the property to the plaintiff by another panel of judges of the District Court. The Plaintiff filed an appeal to the Supreme Court on June 7, 2007. In February, during a meeting with the Ambassador, Prime Minister Brishë committed himself to resolve this case quickly. As a follow-up, the Claimant, with Embassy support, met with two of the Prime Minister's advisors and both sides agreed on the steps required for the GOA to vacate her property and retitle it back to the Claimant. The

Council of Ministers must still approve the decision to vacate the facility as a final step before the government can return it to Claimant. Although a final, positive resolution appears at hand, the past 13 years of back-and-forth litigation without result leaves us cautious in predicting a final resolution of this dispute. Embassy continues to seek an outcome satisfactory to Claimant.

On June 6, 2009, Claimant was given keys to her property in the city of Tirana and an agreement signed by the Ministry of Interior acknowledges her right to the property. Although much still needs to be done by the Claimant to resolve the financial claims and counterclaims, Post considers this case extinguished.

13. (SBU)

a. Claimant B

b. 1993

c. Claimant entered into a joint venture with the Government of Albania (GOA) in 1991 to establish a plastics manufacturing company.

Under the terms of the contract, the GOA was to provide the land, building facilities, staffing and installation of equipment, while Claimant provided capital and factory equipment. After a two-year delay in building construction, Claimant initiated arbitration proceedings, which determined that the GOA was liable for timely completion of construction and restitution for lost profit and interest from Claimant's capital investment. Execution of the decision was unenforceable, since the state arbitration board would not provide Claimant with a printed copy of the decision. In 1995 and 1997, the GOA unsuccessfully appealed the arbitration findings, and in 1998, the GOA sold the unfinished factory building to a third party. Various court decisions between 1998 and 2001 upheld Claimant's rights. However, the order remained unenforced.

In August 2001 the GOA re-registered the buildings claiming sole ownership and entered into a 20-year lease contract with a third party, an Italian shoe manufacturer. In October 2001, Claimant filed a complaint with the European Court for Human Rights, alleging discrimination and violation of the right to private property. In April 2002, the GOA People's Advocate (equivalent to a government ombudsman) decided in favor of Claimant and recommended that the 1998 decision be executed. In June 2003, the Tirana Court of Appeals issued another ruling in favor of Claimant. The Supreme Court and its Joint College of Judges heard the case in March 2004 and ruled in favor of the GOA, and remanded the case back to the District Court. The case was then appealed to the Constitutional Court, which heard arguments in February 2005 and eventually came out with a four to four tie decision (meaning the Supreme Court's decision was not reversed). On December 18, 2007, the European Human Rights Court (EHRC) in Strasbourg ruled against the GOA, upholding in part Claimant's request. The EHRC awarded Claimant 330,000 euros for pecuniary and non-pecuniary damages and 5,700 euros for legal costs and expenses. The decision is not yet final as the GOA has appealed the decision to the EHRC's Grand Chamber. The Italian company continues to operate on the premises and has made physical improvements, including the addition of two new buildings. The Italian company currently employs over 1,200 workers and has become a major exporter of shoes. The Embassy is striving to foster an equitable solution for Claimant, who remains committed to opening a plastics factory in Albania.

Post has not heard from the Claimant in over one year. Since the claim was filed before 1995, and since the case has been heard before the EHRC, pursuant to refTel special instructions in paragraph 19, Post considers this case extinguished.

14. (SBU)

a. Claimant C

b. 2005

c. Claimant is a builder/developer who had three projects/properties destroyed by Albania's Construction Police in the fall of 2005. For the last ten years, Albanian law has prohibited the construction of private businesses on the grounds of public education facilities. During the Socialist Party-led rule from 1997 to 2005, however, a number of businessmen contracted directly with the GOA to build on such properties, in exchange for rehabilitating the educational facility or for providing rental income to the facility. The government issued construction permits, and bars, hotels, gas stations, offices, etc. were built by private companies.

In October 2005, the new Democratic Party-led government declared that such buildings were in contravention of the law and would be destroyed immediately, with no compensation to the owners. One of the first properties destroyed was a popular bar owned by Claimant. Despite only a few hours of legal notice, Claimant obtained a court order enjoining the destruction of the bar until his rights could be determined in court.

Claimant showed the certified Order to the Chief of Construction Police at the premises of the bar minutes before the destruction was to begin. The Chief said he had to carry out his orders to destroy the building. Within 20 minutes, the building was destroyed. Claimant filed a suit in Tirana District Court seeking roughly USD 1,000,000. In 2006, the court ruled in his favor and fined the Construction Police USD 400,000. Claimant, not fully satisfied with the verdict, has appealed to the Court of Appeals to achieve the financial compensation he originally sought. The Court of Appeals ruled in Claimant's favor and gave him an additional \$140,000. Claimant, still not fully satisfied with verdict, has appealed to the Supreme Court. The Supreme Court's verdict is still pending.

Although the Minister of Transportation, Telecommunications and Public Works assured Embassy representatives that: 1) the Construction Police had to respect court orders and the legal process had to be played out; and 2) the Construction Police should give adequate formal notice of its plans, the police issued notice on a Friday evening and destruction occurred the following Monday morning before a court order could be obtained. Compounding this situation, one of the buildings, an eight-story, 2,000,000 euro investment, was not even located on public property, but was attached to a two-story annex located on public property, a fact Embassy had brought to the GOA's attention earlier. In the case of the eight-story building, the Claimant has brought two different charges, one against the Construction Police in order to block further demolition of the building, and the second against the National Council for the Regulation of the Territory (NCRT) to confirm the construction permit which was previously revoked by the NCRT after the demolition of the annex. Claimant has won both cases in Tirana District Court. On October 18, 2007, the Court of Appeals ruled in favor of Claimant on the case against the Construction Police. The hearing process is on-going at the Court of Appeals on the case against the NCRT. Claimant has not made any attempt to ask for compensation because he hopes to be able to complete the project.

Post has not heard from the Claimant for over one year. The Claimant, a member of the opposition Socialist Party, will likely be elected to Parliament in June. Since the case is still in the court system, Post considers this case extinguished until additional factors surface.

15. (SBU)

a. Claimant D

b. 2005

c. Claimant is a large, internationally-known engineering company. Claimant entered into a contract with the GOA to build a rail line connecting the port of Durres to Tirana and Tirana's international airport. The 28-mile rail link project was valued at USD 90,000,000. In September 2005 a new government came to power and, after having criticized the project during the preceding electoral campaign, subsequently terminated the project.

Claimant is pursuing an arbitration claim against the GOA under the terms of the project agreement, which follows the New York Convention on Arbitral Awards. The first arbitration hearing held in June 2007 in Rome established that the GOA is liable to the claimant for damages. Since then, different hearings were held to determine the amount of damages owed to the Claimant and its Greek partner. In April 2008, both sides presented their final arguments on the case and the GOA's legal representatives asked for an independent expert to evaluate the claimed lost profits of the Claimant. The GOA's representatives have submitted a settlement proposal to the Claimant and are waiting for a response. Claimant and its partner are suing for a total of USD 20,000,000 in lost profits, of which Claimant's share is approximately USD 13,000,000.

In summer 2008, Claimant was awarded a 14 million euro judgment by

the International Chamber of Commerce in Paris. Despite numerous attempts to negotiate a settlement with the GOA, the GOA refused to pay. In early 2009, Claimant filed suits in the U.S. and Europe to claim Albanian assets to satisfy the judgment. In June 2009, a Belgian court awarded Claimant fees due Albania for providing air traffic control to aircraft transiting Albanian airspace. The exact amount or terms of the award are not known at this time. Post considers this claim extinguished.

16. (SBU) List of Claimants

Claimant A: Drita Ivanaj, U.S. Citizen. Claimant has not signed a Privacy Act Waiver.

Claimant B: Vlash Marini, U.S. Citizen. Claimant has not signed a Privacy Act Waiver.

Claimant C: Fidel Ylli, U.S. Citizen. Claimant has not signed a Privacy Act Waiver.

Claimant D: General Electric Transportation Systems, U.S. corporation. Claimant has not signed a Privacy Act Waiver.

WITHERS